

EXHIBIT D

1 MICHAEL E. TANKERSLEY (DC Bar # 411978)

mtankersley@ftc.gov

2 GREGORY ASHE (VA Bar # 39131)

gashe@ftc.gov

3 PATRICK ROY (DC Bar # 1023521)

proy@ftc.gov

4 CARLTON B. MOSLEY (DC Bar # 1644552)

cmosley@ftc.gov

Federal Trade Commission

600 Pennsylvania Avenue NW

Mail Stop CC-6316

Washington, DC 20580

Telephone: (202) 326-2991 (Tankersley)

(202) 326-3719 (Ashe)

(202) 326-3477 (Roy)

(202) 326-2163 (Mosley)

Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Federal Trade Commission,

Plaintiff,

v.

Grand Canyon Education, Inc., *et al.*,

Defendants.

No. CV-23-02711-PHX-DWL

**PLAINTIFF'S RESPONSE TO
DEFENDANT GRAND CANYON
EDUCATION, INC.'S FIRST SET OF
REQUESTS FOR PRODUCTION TO
PLAINTIFF FEDERAL TRADE
COMMISSION**

Pursuant to Fed. R. Civ. P. 34, Plaintiff, the Federal Trade Commission ("FTC"), by its undersigned attorneys, hereby makes the following objections and provides the following responses to Defendant Grand Canyon Education, Inc.'s First Set of Requests for Production of Documents. The FTC's responses represent the FTC's present knowledge based on its investigation, information, and preparation to

PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION TO PLAINTIFF FEDERAL TRADE COMMISSION

1 date; the FTC reserves the right to supplement, revise, modify or otherwise change or
2 amend its responses and objections to the First Set of Requests. The FTC responds to
3 these requests in accordance with Federal Rules of Civil Procedure 34, and objects to
4 the Requests to the extent that they seek to impose obligations beyond those
5 authorized by the Rule.
6

7 Where the Commission responds that it will produce documents in response to a
8 Request, the Commission will conduct a reasonable search of files created or collected in
9 connection with the investigation that proceeded this Litigation that are likely to contain
10 responsive material, and produce documents identified through such search if the
11 documents are not privileged or protected by the work-product doctrine, and not subject
12 to other objection regarding the scope of discovery. Fed. R. Civ. P. 26(b). A response
13 that the Commission will produce Documents does not indicate that the Commission will
14 search for or produce documents not in the possession, custody, or control of the FTC
15 and its present employees, principals, officials, agents, attorneys, economists, and
16 consultants either assigned to or reviewing this Litigation. The FTC will produce
17 documents as they are kept in the regular course of business and follow the
18 specifications for production of Electronically Stored Information (“ESI”) in the
19 stipulation exchanged by the parties.

20 The FTC generally objects to these Requests insofar as they encompass public
21 records and Documents already in Defendant GCE’s possession, custody, or control
22 including documents produced to the FTC prior to initiation of this suit, tax returns and
23 financial reports of GCU or GCE, Documents available to the public on the docket of
24 suits identified in the Commission’s initial disclosures, and filings with the Securities
25 and Exchange Commission. To the extent a request seeks documents in GCE’s

1 possession, custody, or control, the request is improper and disproportionate to the needs
2 of this case because GCE has more convenient access to the records, and production
3 would be unduly burdensome and unnecessarily expensive. *See* Fed. R. Civ. P. 26(b)(1),
4 (b)(2)(C)(i).

5 The Commission also objects to requests for production of “Communications” as
6 defined in the accompanying Definitions, as the definition of “Communications” that
7 accompanies these First Set of Requests is not confined to documents and tangible things
8 within the scope of Federal Rule of Procedure 34 and fails to describe the requested
9 records with reasonable particularity.

10 The Commission also objects to the breadth of the definition of “Plaintiff,”
11 “You,” or “Your” that accompanies these First Set of Requests (Definition 8). Requests
12 that incorporate this Definition fail to describe the requested records with reasonable
13 particularity, and are overly broad, unduly burdensome, and disproportionate to the
14 needs of the case to the extent that it defines these terms to include any individuals not
15 involved in the investigation of GCU and GCE that gave rise to this Litigation, and are
16 not assigned to or involved in the investigation or Litigation. Furthermore, to the extent
17 this definition encompasses pre-decisional documents prepared for Commissioners by
18 their professional staffs, by the FTC’s General Counsel, or by other FTC components in
19 aid of the Commission’s decision to commence litigation, each of those documents
20 would be subject to the attorney-client privilege, the deliberative-process privilege, and
21 the work product doctrine.

22 The FTC will make an initial production the week of November 12, 2024, by
23 producing copies of electronic records in accordance with the parties’ agreed ESI
24 protocol. Following this initial production, the FTC will consult with Defendants to
25 determine if adjustments to the method of ESI production are appropriate. The FTC will

1 then produce the remainder of the documents to be produced in response to these
2 requests by providing electronic copies, and anticipates completing the production by
3 December 20, 2024.

OBJECTIONS TO INDIVIDUAL REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce all Documents relating to or reflecting Communications between You and any other Person, including but not limited to other public entities or governmental agencies, regarding GCU, GCE, or Defendant Brian Mueller.

RESPONSE: The FTC objects that this Request fails to describe the requested records with reasonable particularity, and is overbroad, unduly burdensome and disproportionate to the needs of the case in that it purports to require the FTC to search for and produce all Documents relating to or reflecting any communication between the agency and a Person that even mentions GCU, GCE or Defendant Brian Mueller, without regard to whether the communication is relevant to the claims or defenses in this Litigation. The Request encompasses Documents that have no relevance to the claims or defenses in this action, and the burden of conducting a search to gather and produce “all Documents relating to or reflecting Communications” is not justified by the value of such a search and production to resolving the issues in this Litigation. *See Regan-Touhy v. Walgreen Co.*, 526 F.3d 641, 649 (10th Cir. 2008). The FTC also objects to the extent that this Request encompasses Documents containing communications between the Commission and Defendants or Defendants’ counsel as GCE already has access to such Documents; a request that the FTC search for and re-produce such Documents is unduly burdensome and improper. The FTC also objects to the extent that this Request encompasses public records or Documents in GCE’s possession, custody, or control, as GCE already has access to such Documents; a request that FTC search for and re-produce such Documents is unduly burdensome and improper. The FTC is withholding documents based on these objections.

1 The FTC objects to this Request because it seeks Documents protected by the
2 attorney-client privilege, the deliberative process privilege, the informant's privilege, the
3 law enforcement evidentiary or investigatory files privilege, and the work product
4 doctrine. Accordingly, the FTC will not produce Documents containing internal
5 Commission communications (including communications between Commissioners and
6 executives), Communications with informants and other law enforcement agencies,
7 Documents related to such communications, or memoranda and analyses prepared in
8 anticipation of litigation, or Documents containing protected Communications with third
9 parties.

10 The FTC will produce the civil investigative demands and requests for Documents
11 sent to businesses and agencies in investigating the allegations in this Litigation.

12 The FTC also will conduct a reasonable inquiry and produce non-privileged
13 Documents obtained from businesses, consumers and agencies relating to the allegations
14 in this Litigation, as described in the responses below to Requests 3, 4, 5, 7, 9, 10, 14, 19,
15 20.

16 **REQUEST FOR PRODUCTION NO. 2:** Produce all Documents and
17 Communications identified in, described in, or used in formulating Your responses to
18 GCE's First Set of Interrogatories to Plaintiff, served contemporaneously herewith.

19
20 **RESPONSE:** The FTC objects that this Request is overbroad, unduly burdensome, and
21 disproportionate to the needs of the case in that it purports to require the FTC to produce
22 "all Documents and Communications" identified in, described in, or used in formulating
23 Interrogatory Responses. Furthermore, the Commission objects to the Request to produce
24 all "Communications" as overbroad, burdensome, and improper, as the definition of
25 "Communications" that accompanies these First Requests is not confined to documents

1 and tangible things within the scope of Federal Rule of Procedure 34. To the extent this
2 Request seeks public records or documents in GCE's possession, custody, or control, the
3 Request is improper and unduly burdensome because GCE has access to the Documents
4 without the FTC re-producing them. The FTC is withholding documents based on these
5 objections.

6 The FTC objects to this Request because Documents used in formulating its
7 Interrogatory responses are protected by the attorney-client privilege, the deliberative
8 process privilege, the informant's privilege, the law enforcement evidentiary or
9 investigatory files privilege, and the work product doctrine. Accordingly, the FTC will
10 not produce Documents containing internal Commission communications, notes, drafts,
11 communications with informants and other law enforcement agencies, documents related
12 to such communications, or memoranda and analyses prepared in anticipation of litigation,
13 or Documents containing protected communications.

14 The FTC will produce Documents identified in or described in the Interrogatory
15 Responses that are not in Defendants' possession, custody, or control, as they are kept in
16 the ordinary course of business and as described below in the responses to other requests.

17 **REQUEST FOR PRODUCTION NO. 3:** Produce All Documents and
18 Communications relating to, reflecting, or prepared in connection with any complaints,
19 concerns, or questions by any consumer regarding GCU's doctoral programs or GCE's
20 marketing or promotion of GCU's doctoral programs. This request includes any
21 Documents and Communications between You and any consumer who you allege was
22 misled or otherwise injured by GCU or GCE as alleged in the Amended Complaint.

23
24 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
25 with reasonable particularity, and is overbroad, unduly burdensome and disproportionate

1 to the needs of the case in that it purports to require the FTC to search for and produce all
2 Documents relating to, reflecting, or prepared in connection with “any complaints,
3 concerns, or questions by any consumer regarding GCU’s doctoral programs or GCE’s
4 marketing or promotion of GCU’s doctoral programs” without regard to whether the
5 Document is relevant to the claims or defenses in this Litigation. The Request
6 encompasses Documents that have no relevance to the claims or defenses in this action,
7 and the burden of conducting a search to gather and produce all Documents relating to,
8 reflecting, or prepared in connection the broad scope of this Request is not justified by the
9 value of such a search and production to resolving the issues in this Litigation.
10 Furthermore, the Commission objects to the Request to produce all “Communications” as
11 overbroad, burdensome, and improper, as the definition of “Communications” that
12 accompanies these First Requests is not confined to documents and tangible things within
13 the scope of Federal Rule of Procedure 34. The FTC is withholding documents based on
14 these objections.

15 The FTC objects to this Request because it seeks Documents protected by the
16 attorney-client privilege, the deliberative process privilege, the law enforcement
17 evidentiary or investigatory files privilege, the informant’s privilege, and the work product
18 doctrine. The FTC objects to this Request because it seeks communications with, and
19 documents that would identify individuals subject to the informant’s privilege. *See In re*
20 *Perez*, 749 F.3d 849, 855 (9th Cir. 2014). Accordingly, the FTC will not produce
21 Documents that would identify informants, contain internal Commission communications,
22 notes, drafts, communications with informants and other law enforcement agencies,
23 documents related to such communications, or memoranda and analyses prepared in
24 anticipation of litigation, or Documents containing protected communications.

1 The FTC also objects to this Request to the extent it covers Documents already in
2 Defendant GCE's possession, custody, or control including documents produced to the
3 FTC prior to initiation of this suit. To the extent this Request seeks documents in GCE's
4 possession, custody, or control, the Request is unduly burdensome and improper as GCE
5 already has access to such records. it would be more convenient, less burdensome, and less
6 expensive for GCE to access such Documents than for the FTC to produce those
7 Documents. The FTC is withholding documents based on these objections.

8 The FTC will produce consumer complaints submitted to the FTC that identify the
9 GCU doctoral program as the topic of the consumer's complaint, authorizations for release
10 of education records, and declarations in which consumers describe the marketing of the
11 GCU doctoral program. The search and production will exclude public records and
12 Documents that the Defendants produced to the Commission prior to the initiation of this
13 suit.

14 **REQUEST FOR PRODUCTION NO. 4:** Produce All Documents and

15 Communications relating to, reflecting, or prepared in connection with any complaints,
16 concerns, or questions any consumer raised regarding GCU's nonprofit status. This
17 request includes any Documents and Communications between You and any consumer
18 who you allege was misled or otherwise injured by GCU or GCE as alleged in the
19 Amended Complaint.

20
21 **RESPONSE:** The FTC objects to this Request to the extent it covers Documents already
22 in Defendant GCE's possession, custody, or control, or public records. Concerns
23 regarding GCU's purported nonprofit status have been addressed in congressional
24 proceedings and litigation that have produced records accessible to GCE. To the extent
25 this Request seeks public records or documents in GCE's possession, custody, or control,

1 the Request is improper and unduly burdensome because GCE has access to the
2 Documents without the FTC re-producing them.

3 The FTC objects that this Request fails to describe the requested records with
4 reasonable particularity, and is overbroad, unduly burdensome, and disproportionate to the
5 needs of the case in that it purports to require the FTC to search for and produce all
6 Documents relating to, reflecting, or prepared in connection with “any complaints,
7 concerns, or questions by any consumer regarding GCU’s nonprofit status” without regard
8 to whether the Document is relevant to the claims or defenses in this Litigation. The
9 burden of conducting a search to gather and produce all Documents relating to, reflecting,
10 or prepared in connection the broad scope of this Request is not justified by the value of
11 such a search and production to resolving the issues in this Litigation. Furthermore, the
12 Commission objects to the Request to produce all “Communications” as overbroad,
13 burdensome, and improper, as the definition of “Communications” that accompanies these
14 First Requests is not confined to documents and tangible things within the scope of
15 Federal Rule of Procedure 34. The FTC is withholding documents based on these
16 objections.

17 The FTC objects to this Request because it seeks Documents protected by the
18 attorney-client privilege, the deliberative process privilege, the law enforcement
19 evidentiary or investigatory files privilege, the informant’s privilege, and the work product
20 doctrine. The FTC objects to this Request because it seeks communications with, and
21 documents that would identify individuals subject to the informant’s privilege.
22 Accordingly, the FTC will not produce Documents that would identify informants, contain
23 internal Commission communications, notes, drafts, communications with informants and
24 other law enforcement agencies, documents related to such communications, or

1 memoranda and analyses prepared in anticipation of litigation, or Documents containing
2 protected communications.

3 The FTC will conduct a reasonable search and produce consumer complaints
4 submitted to the FTC that reference representations that GCU is a nonprofit. The search
5 and production will exclude Documents that the Defendants produced to the Commission
6 prior to the initiation of this suit.

7
8 **REQUEST FOR PRODUCTION NO. 5:** Produce All Documents and
9 Communications relating to, reflecting, or prepared in connection with any complaints,
10 concerns, or questions any consumer raised regarding communications You allege
11 consumers received from telemarketers on behalf of Defendants. This request
12 includes any Documents and Communications between You and any consumer who
13 you allege was misled or otherwise injured by GCU or GCE as alleged in the Amended
14 Complaint.

15 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
16 with reasonable particularity, and is overbroad, unduly burdensome and disproportionate
17 to the needs of the case in that it purports to require the FTC to search for and produce all
18 Documents relating to, reflecting, or prepared in connection with “any complaints,
19 concerns, or questions by any consumer raised regarding” communications consumers
20 received on behalf of Defendants, without regard to whether the Document is relevant to
21 the claims or defenses in this Litigation. The Request encompasses Documents that have
22 no relevance to the claims or defenses in this action, and the burden of conducting a search
23 to gather and produce all Documents relating to, reflecting, or prepared in connection the
24 broad scope of this Request is not justified by the value of such a search and production to
25 resolving the issues in this Litigation. Furthermore, the Commission objects to the

1 Request to produce all “Communications” as overbroad, burdensome, and improper, as the
2 definition of “Communications” that accompanies these First Requests is not confined to
3 documents and tangible things within the scope of Federal Rule of Procedure 34. The
4 FTC is withholding documents based on these objections.

5 The FTC objects to this Request because it seeks Documents protected by the
6 attorney-client privilege, the deliberative process privilege, the law enforcement
7 evidentiary or investigatory files privilege, the informant’s privilege, and the work product
8 doctrine. The FTC objects to this Request because it seeks communications with, and
9 documents that would identify individuals subject to the informant’s privilege.

10 Accordingly, the FTC will not produce Documents that would identify informants, that
11 contain internal Commission communications, notes, drafts, communications with
12 informants and other law enforcement agencies, documents related to such
13 communications, or memoranda and analyses prepared in anticipation of litigation, or
14 Documents containing protected communications.

15 The FTC also objects to this Request to the extent it covers Documents already in
16 Defendant GCE’s possession, custody, or control including documents produced to the
17 FTC prior to initiation of this suit. To the extent this Request seeks documents in GCE’s
18 possession, custody, or control, the Request is improper and unduly burdensome because
19 GCE has access to the Documents without the FTC re-producing them.

20 The FTC will conduct a reasonable search for and produce consumer complaints
21 submitted to the FTC that report telemarketing calls to telephone numbers on the National
22 Do Not Call Registry and/or telephone calls to persons who had stated that they did not
23 wish to receive telemarketing calls on behalf of GCU. As stated above, the FTC will also
24 produce Documents in response to Requests 3 and 4, and those Documents also concern
25 communications received from telemarketers on behalf of Defendants. The search and

1 production will exclude Documents that the Defendants produced to the Commission prior
2 to the initiation of this suit.

3 **REQUEST FOR PRODUCTION NO. 6:** Produce all Documents and
4 Communications relating to, referencing, or evidencing Your allegations that
5 Defendants' representations regarding GCU's nonprofit status or transition to a non-
6 profit educational institutions [sic] were false or misleading or were not substantiated at
7 the time the representations were made.
8

9 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
10 with reasonable particularity, and is overbroad, unduly burdensome and disproportionate
11 to the needs of the case in that it purports to require the FTC to search for and produce all
12 Documents relating to, reflecting, or evidencing the allegations that Defendants'
13 representations regarding GCU's nonprofit status or transition to a non-profit educational
14 institutions were false or misleading or were not substantiated at the time the
15 representations were made without regard to whether the Document is relevant to the
16 claims or defenses in this Litigation. The burden of conducting a search to gather and
17 produce all Documents relating to, reflecting, or prepared in connection the broad scope of
18 this Request is not justified by the value of such a search and production to resolving the
19 issues in this Litigation. Furthermore, the Commission objects to the Request to produce
20 all "Communications" as overbroad, burdensome, and improper, as the definition of
21 "Communications" that accompanies these First Requests is not confined to documents
22 and tangible things within the scope of Federal Rule of Procedure 34. The FTC is
23 withholding documents based on these objections.

24 The FTC objects to this Request because it seeks Documents protected by the
25 attorney-client privilege, the deliberative process privilege, the law enforcement

1 evidentiary or investigatory files privilege, the informant's privilege, and the work product
2 doctrine. Accordingly, the FTC will not produce Documents containing internal
3 Commission communications, notes, drafts, communications with informants and other
4 law enforcement agencies, documents related to such communications, or memoranda and
5 analyses prepared in anticipation of litigation, or Documents containing protected
6 communications.

7 The FTC also objects to this Request to the extent it covers public records and
8 Documents already in Defendant GCE's possession, custody, or control. Records
9 challenging GCU's purported nonprofit status in administrative, court and congressional
10 proceedings are accessible to GCE. Press and online descriptions of the allegations in this
11 Litigation are likewise accessible to GCE. To the extent this Request seeks public records
12 or documents in GCE's possession, custody, or control, the Request is improper and
13 unduly burdensome because GCE has access to the Documents without the FTC re-
14 producing them.

15 The FTC will conduct a reasonable search and produce consumer complaints
16 submitted to the FTC that reference representations that GCU is a nonprofit. The search
17 and production will exclude Documents that the Defendants produced to the Commission
18 prior to the initiation of this suit. The FTC will also produce records obtained from the
19 Internal Revenue Service and Arizona Corporations Commission, as described below in
20 the response to Request 20.

21 **REQUEST FOR PRODUCTION NO. 7:** Produce all Documents and
22 Communications relating to, referencing, or evidencing Your allegation that
23 Defendants' representations regarding the number of courses or credits, or the total
24

1 charges to complete a doctoral degree at GCU were false or misleading or were not
2 substantiated at the time the representations were made.

3 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
4 with reasonable particularity, and is overbroad, unduly burdensome and disproportionate
5 to the needs of the case in that it purports to require the FTC to search for and produce all
6 Documents relating to, reflecting, or evidencing “Defendants’ representations regarding
7 the number of courses or credits, or the total charges to complete a doctoral degree at GCU
8 were false or misleading or were not substantiated at the time the representations were
9 made” without regard to whether the Document is relevant to the claims or defenses in this
10 Litigation. The burden of conducting a search to gather and produce all Documents
11 relating to, reflecting, or evidencing the referenced allegations is not justified by the value
12 of such a search and production to resolving the issues in this Litigation. Furthermore, the
13 Commission objects to the Request to produce all “Communications” as overbroad,
14 burdensome, and improper, as the definition of “Communications” that accompanies these
15 First Requests is not confined to documents and tangible things within the scope of
16 Federal Rule of Procedure 34.

17 The FTC also objects to this Request to the extent it covers public records and
18 Documents already in Defendant GCE’s possession, custody, or control. Records from
19 the Department of Education’s examination of GCU’s representations regarding the
20 number of courses or credits, or the total charges to complete a doctoral degree are
21 accessible to GCE. Records of lawsuits and complaints by doctoral students are available
22 to GCE or in its possession. Press and online descriptions of the allegations in this
23 Litigation are likewise accessible to GCE. To the extent this Request seeks public records
24 or documents in GCE’s possession, custody, or control, the Request is improper and
25

unduly burdensome because GCE has access to the Documents without the FTC reproducing them. The FTC is withholding documents based on these objections.

The FTC objects to this Request because it seeks Documents protected by the attorney-client privilege, the deliberative process privilege, the law enforcement evidentiary or investigatory files privilege, the informant's privilege, and the work product doctrine. Accordingly, the FTC will not produce Documents that identify informants, contain internal Commission communications, notes, drafts, communications with informants and other law enforcement agencies, documents related to such communications, or memoranda and analyses prepared in anticipation of litigation, or Documents containing protected communications.

The FTC will conduct a reasonable search and produce consumer complaints submitted to the FTC that reference representations the GCU doctoral program and declarations from consumers regarding representations regarding the number of courses or credits, or the total charges to complete a doctoral degree. The search and production will exclude public records and Documents that the Defendants produced to the Commission prior to the initiation of this suit.

REQUEST FOR PRODUCTION NO. 8: For each consumer who You allege was misled or deceived by Defendants' representations regarding GCU's nonprofit status, or transition to a non-profit educational institution, produce all Documents and Communications concerning the factual basis for that allegation, including but not limited to any advertisements, communications, or any other representations You allege were made by Defendants.

RESPONSE: The Commission objects that this request mischaracterizes the allegations and is, consequently, outside the scope of discovery. The Commission's First Amended

1 Complaint does not contain the allegation described in this Request. The Request also
2 fails to describe an item or category of records with reasonable particularity as “all
3 Documents and Communications concerning the factual basis” for the absent allegation is
4 too vague to identify records with particularity. The Commission’s objection to the
5 definition of “Communications” is also applicable to this Request. The Commission will
6 not produce Documents in response to this Request.

7 In the responses to other Requests herein, the FTC describes Documents that it will
8 produce regarding the allegations in the First Amended Complaint.

9 **REQUEST FOR PRODUCTION NO. 9:** For each consumer who You allege was
10 misled or deceived by Defendants’ representations regarding the number of courses or
11 credits to complete GCU’s doctoral program or the cost of GCU’s doctoral program,
12 produce all Documents and Communications concerning the factual basis for that
13 allegation, including but not limited to any advertisements, communications, or any
14 other representations You allege were made by Defendants.

15
16 **RESPONSE:** The Commission objects that this request mischaracterizes the allegations
17 and is, consequently, outside the scope of discovery. The Commission’s First Amended
18 Complaint does not contain the allegation described in this Request. The Request also
19 fails to describe an item or category of records with reasonable particularity as “all
20 Documents and Communications concerning the factual basis” for the absent allegation is
21 too vague to identify records with particularity. The Commission’s objection to the
22 definition of “Communications” is also applicable to this Request. The Commission will
23 not produce Documents in response to this Request.

24 In the responses to other Requests herein, the FTC describes Documents that it will
25 produce regarding the allegations in the First Amended Complaint.

1 **REQUEST FOR PRODUCTION NO. 10:** For each consumer who You allege
2 received an outbound telephone call from Defendants after the consumer represented they
3 did not wish to receive such a call, produce all Documents and Communications
4 concerning the factual basis for that allegation, including any Documents or
5 Communications relating to the type of representation made and the basis for Your
6 allegation that the representation was misleading.

7
8 **RESPONSE:** The Commission objects that this request mischaracterizes the allegations
9 and is, consequently, outside the scope of discovery. The Commission's First Amended
10 Complaint does not contain the allegation described in this Request. The First Amended
11 Complaint alleges that GCE telemarketers acting on behalf of GCU have initiated more
12 than a million telemarketing calls to telephone numbers of consumers who had, prior to
13 the call, specifically requested that telemarketing calls for GCU not be made to that
14 telephone number (§ 37), and does not state that this allegation is based on a representation
15 that was misleading.

16 The FTC objects that this Request fails to describe the requested records with
17 reasonable particularity, and is overbroad, unduly burdensome, and disproportionate to the
18 needs of the case in that it purports to require the FTC to search for and produce all
19 Documents concerning the factual basis of Paragraph 37. Furthermore, the Commission
20 objects to the Request to produce all "Communications" as overbroad, burdensome, and
21 improper, as the definition of "Communications" that accompanies these First Requests is
22 not confined to documents and tangible things within the scope of Federal Rule of
23 Procedure 34.

24 The factual basis for Paragraph 37 of the First Amended Complaint is in
25 Documents in Defendant GCE's possession, custody, or control including documents

1 produced to the FTC prior to initiation of this suit. Defendant GCE also has access to the
2 National Do Not Call Registry. Accordingly, the FTC objects that this Request is unduly
3 burdensome to the extent this Request seeks documents in GCE's possession, custody, or
4 control, the Request is improper and unduly burdensome because GCE has access to the
5 Documents without the FTC re-producing them. The FTC is withholding documents
6 based on these objections.

7 To the extent that this Request seeks internal FTC Documents and
8 Communications concerning the allegations in Paragraph 37 of the First Amended
9 Complaint, the FTC objects on the basis of the deliberative process privilege, attorney
10 client privilege, informant's privilege and work-product doctrine. Accordingly, the FTC
11 will not produce Documents that identify informants, contain internal Commission
12 communications, notes, drafts, communications with informants and other law
13 enforcement agencies, documents related to such communications, or memoranda and
14 analyses prepared in anticipation of litigation, or Documents containing protected
15 communications.

16 The FTC will produce records in which consumers reported unwanted
17 telemarketing calls on behalf of GCU after they had, prior to the call, specifically stated
18 that they did not want to receive telemarketing calls on behalf of GCU. The search and
19 production will exclude Documents that the Defendants produced to the Commission prior
20 to the initiation of this suit.

21 **REQUEST FOR PRODUCTION NO. 11:** For each consumer who You allege
22 received an outbound telephone call from Defendants related to GCU's doctoral program
23 or nonprofit status and who was misled by Defendants' representations on that call,
24

1 produce all Documents and Communications concerning the factual basis for that
2 allegation.

3 **RESPONSE:** The Commission objects that this request mischaracterizes the allegations
4 and is, consequently, outside the scope of discovery. The Commission's First Amended
5 Complaint does not contain the allegation described in this Request. The Request also
6 fails to describe an item or category of records with reasonable particularity as "all
7 Documents and Communications concerning the factual basis" for the absent allegation is
8 too vague to identify records with particularity. The Commission's objection to the
9 definition of "Communications" is also applicable to this Request. The Commission will
10 not produce Documents in response to this Request.

11 In the responses to other Requests herein, the FTC describes Documents that it will
12 produce regarding the allegations in the First Amended Complaint.

13 **REQUEST FOR PRODUCTION NO. 12:** For each consumer who You allege
14 received an outbound telephone call from Defendants and who is on the National Do
15 Not Call Registry, produce all Documents and Communications concerning the factual
16 basis for that allegation, including any Documents or Communications evidencing
17 the consumer's placement on the National Do Not Call Registry.

18 **RESPONSE:** The FTC objects to this Request because Documents containing the factual
19 basis for the allegation are in Defendant GCE's possession, custody, or control including
20 documents produced to the FTC prior to initiation of this suit. Defendant GCE also has
21 access to the National Do Not Call Registry. To the extent this Request seeks documents
22 in GCE's possession, custody, or control, the Request is improper and unduly burdensome
23 because GCE has access to the Documents without the FTC re-producing them.

1 To the extent that this Requests seeks “Documents or Communications
2 evidencing the consumer’s placement on the National Do Not Call Registry” beyond the
3 Registry itself, the FTC objects that this Request fails to describe the requested records
4 with reasonable particularity, and is overbroad, unduly burdensome, and disproportionate
5 to the needs of the case. Outbound telemarketing calls to numbers on the National Do Not
6 Call Registry are prohibited without regard to the manner in which the consumer’s number
7 is placed on the Registry. Furthermore, the Commission objects to the Request to produce
8 all “Communications” as overbroad, burdensome, and improper, as the definition of
9 “Communications” that accompanies these First Requests is not confined to documents
10 and tangible things within the scope of Federal Rule of Procedure 34. The FTC is
11 withholding documents based on these objections.

12 To the extent that this Request seeks internal FTC Documents and
13 Communications concerning outbound calls to consumers on the Do Not Call Registry the
14 FTC objects on the basis of the deliberative process privilege, attorney client privilege,
15 informant’s privilege and work-product doctrine. Accordingly, the FTC will not produce
16 Documents that identify informants, contain internal Commission communications, notes,
17 drafts, communications with informants and other law enforcement agencies, documents
18 related to such communications, or memoranda and analyses prepared in anticipation of
19 litigation, or Documents containing protected communications.

20 The FTC will produce records of consumers reporting unwanted telemarketing
21 calls on behalf of GCU to telephone numbers listed on the National Do Not Call Registry.
22 The search and production will exclude public records and Documents that the Defendants
23 produced to the Commission prior to the initiation of this suit.

1 **REQUEST FOR PRODUCTION NO. 13:** Produce all Documents and
2 Communications relating to, supporting, substantiating, or evidencing Your allegation
3 in Paragraphs 22 and 23 of the Amended Complaint that Defendants disseminated
4 “digital and print advertising” “representing that GCU had transitioned back to a
5 nonprofit on websites, social media, press releases, video marketing and social media.”

6 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
7 with reasonable particularity, and is overbroad, unduly burdensome, and disproportionate
8 to the needs of the case in that it purports to require the FTC to search for and produce all
9 Documents relating to, supporting, substantiating or evidencing allegations in Paragraph
10 22 and 23 of the Amended Complaint without regard to whether the Document is relevant
11 to the claims or defenses in this Litigation. The burden of conducting a search to gather
12 and produce all Documents relating to, supporting, substantiating, or evidencing the
13 referenced allegations is not justified by the value of such a search and production to
14 resolving the issues in this Litigation. Furthermore, the Commission objects to the
15 Request to produce all “Communications” as overbroad, burdensome, and improper, as the
16 definition of “Communications” that accompanies these First Requests is not confined to
17 documents and tangible things within the scope of Federal Rule of Procedure 34.

18 The FTC also objects to this Request to the extent it covers public records and
19 Documents already in Defendant GCE’s possession, custody, or control. The allegations
20 in Paragraphs 22 and 23 reference digital and print advertising produced by Defendants to
21 the Commission or other agencies prior to this Litigation. To the extent this Request seeks
22 public records or documents in GCE’s possession, custody, or control, the Request is
23 improper and unduly burdensome because GCE has access to the Documents without the
24 FTC re-producing them. The FTC is withholding documents based on these objections.

1 Insofar as this Request seeks Documents that evaluate Defendants’ advertising, the
2 FTC objects to this Request because it seeks Documents protected by the work product
3 doctrine, the attorney-client privilege, the deliberative process privilege, and the law
4 enforcement evidentiary or investigatory files privilege. Accordingly, the FTC will not
5 produce Documents containing internal Commission communications, notes, drafts,
6 communications with other law enforcement agencies, documents related to such
7 communications, or memoranda and analyses prepared in anticipation of litigation, or
8 Documents containing protected communications.

9 The FTC will conduct a reasonable inquiry and produce non-privileged Documents
10 obtained from businesses and agencies relating to the allegations in Paragraphs 22 and 23,
11 as described in the response to Request 20. The search and production will exclude
12 Documents that the Defendants produced to the Commission prior to the initiation of this
13 suit.

14 **REQUEST FOR PRODUCTION NO. 14:** Produce All Documents and
15 Communications relating to, supporting, substantiating, or evidencing Your allegation in
16 Paragraph 59 of the Amended Complaint that students were “thwarted and delayed”
17 from advancing through GCU’s doctoral program by GCU’s actions or inaction.

18
19 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
20 with reasonable particularity, and is overbroad, unduly burdensome, and disproportionate
21 to the needs of the case in that it purports to require the FTC to search for and produce all
22 Documents relating to, supporting, substantiating or evidencing the allegation in
23 Paragraph 59 without regard to whether the Document is relevant to the claims or defenses
24 in this Litigation. The burden of conducting a search to gather and produce all Documents
25 relating to, supporting, substantiating, or evidencing the referenced allegation is not

1 justified by the value of such a search and production to resolving the issues in this
2 Litigation. Furthermore, the Commission objects to the Request to produce all
3 “Communications” as overbroad, burdensome, and improper, as the definition of
4 “Communications” that accompanies these First Requests is not confined to documents
5 and tangible things within the scope of Federal Rule of Procedure 34.

6 The FTC also objects to this Request to the extent it covers public records and
7 Documents already in Defendant GCE’s possession, custody, or control. Lawsuits and
8 complaints reflecting the allegation in Paragraph 59 are accessible to GCE. To the extent
9 this Request seeks public records or documents in GCE’s possession, custody, or control,
10 the Request is improper and unduly burdensome because GCE has access to the
11 Documents without the FTC re-producing them. The FTC is withholding documents
12 based on these objections.

13 Insofar as this request seeks Documents that evaluate reports on students’
14 experience, the FTC objects to this Request because it seeks Documents protected by the
15 work product doctrine, the attorney-client privilege, the deliberative process doctrine, the
16 informant’s privilege, and the law enforcement evidentiary or investigatory files privilege.
17 Accordingly, the FTC will not produce Documents that identify informants, contain
18 internal Commission communications, notes, drafts, communications with informants and
19 other law enforcement agencies, documents related to such communications, or
20 memoranda and analyses prepared in anticipation of litigation, or Documents containing
21 protected communications.

22 The FTC will produce consumer complaints and declarations as described in the
23 responses to Requests 3 and 20. The search and production will exclude public records
24 and Documents that the Defendants produced to the Commission prior to the initiation of
25 this suit.

1 **REQUEST FOR PRODUCTION NO. 15:** Produce all Documents and
2 Communications relating to, supporting, substantiating, or evidencing Your allegation in
3 Paragraph 64 of the Amended Complaint that Defendants used “buried disclaimers,
4 misleading statements, or presentations that distort the program requirements” to
5 communicate to prospective students about GCU’s doctoral programs.

6 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
7 with reasonable particularity, and is overbroad, unduly burdensome, and disproportionate
8 to the needs of the case in that it purports to require the FTC to search for and produce all
9 Documents relating to, supporting, substantiating or evidencing allegations in Paragraph
10 64 of the Amended Complaint without regard to whether the Document is relevant to the
11 claims or defenses in this Litigation. The burden of conducting a search to gather and
12 produce all Documents relating to, supporting, substantiating, or evidencing the referenced
13 allegations is not justified by the value of such a search and production to resolving the
14 issues in this Litigation. Furthermore, the Commission objects to the Request to produce
15 all “Communications” as overbroad, burdensome, and improper, as the definition of
16 “Communications” that accompanies these First Requests is not confined to documents
17 and tangible things within the scope of Federal Rule of Procedure 34.

18 The FTC also objects to this Request to the extent it covers public records and
19 Documents already in Defendant GCE’s possession, custody, or control. The allegations
20 in Paragraph 64 refer to communications disseminated by Defendants and spreadsheet
21 data produced by Defendants. Records from the Department of Education’s examination
22 of GCU’s communications to prospective students and continuation course data are
23 accessible to GCE. To the extent this Request seeks public records or documents in
24 GCE’s possession, custody, or control, the Request is improper and unduly burdensome
25

1 because GCE has access to the Documents without the FTC re-producing them. The FTC
2 is withholding documents based on these objections.

3 Insofar as this request seeks Documents that evaluate disclaimers or data, the FTC
4 objects to this Request because it seeks Documents protected by the work product
5 doctrine, the attorney-client privilege, the deliberative process doctrine, the informant's
6 privilege, and the law enforcement evidentiary or investigatory files privilege.
7 Accordingly, the FTC will not produce Documents that identify informants, contain
8 internal Commission communications, notes, drafts, communications with informants and
9 other law enforcement agencies, documents related to such communications, or
10 memoranda and analyses prepared in anticipation of litigation, or Documents containing
11 protected communications.

12 The FTC will not be producing Documents in response to this Request because it is
13 presently unaware of non-privileged responsive Documents other than those already in
14 Defendants' possession, custody or control.

15 **REQUEST FOR PRODUCTION NO. 16:** Produce all Documents and
16 Communications concerning any inquiries, review, investigation, or other analysis
17 supporting or related to Your determination that the representations that GCU or GCE
18 made regarding the length and cost of GCU's doctoral program and GCU's nonprofit
19 status were "deceptive" or "misleading" to consumers, as alleged in Paragraph 66 of
20 Your Amended Complaint.
21

22 **RESPONSE:** Insofar as this Request seeks Documents that evaluate representations made
23 by GCU or GCE, the FTC objects to this Request because it seeks Documents protected by
24 the work product doctrine, the attorney-client privilege, the deliberative process doctrine,
25 the informant's privilege, and the law enforcement evidentiary or investigatory files

1 privilege. Accordingly, the FTC will not produce Documents containing internal
2 Commission communications, notes, drafts, communications with informants and other
3 law enforcement agencies, documents related to such communications, or memoranda and
4 analyses prepared in anticipation of litigation, or Documents containing protected
5 communications.

6 The FTC also objects to this Request to the extent it covers public records and
7 Documents already in Defendant GCE's possession, custody, or control. The
8 representations described in Paragraph 66 appear in records Defendants produced to the
9 Commission or other agencies. Records from GCU's application to the Department of
10 Education regarding transfer of control and subsequent litigation, and the Department of
11 Education's inquiry into the GCU doctoral programs are accessible to GCE. To the extent
12 this Request seeks public records or documents in GCE's possession, custody, or control,
13 the Request is improper and unduly burdensome because GCE has access to the
14 Documents without the FTC re-producing them.

15 The FTC objects that this Request fails to describe the requested records with
16 reasonable particularity, and is overbroad, unduly burdensome, and disproportionate to the
17 needs of the case in that it purports to require the FTC to search for and produce all
18 Documents concerning any inquiries, review, investigation, or other analysis supporting or
19 related to Paragraph 66 of the Amended Complaint without regard to whether the
20 Document is relevant to the claims or defenses in this Litigation. The burden of
21 conducting a search to gather and produce all Documents any inquiries, review, or
22 investigation "related to" the referenced allegation is not justified by the value of such a
23 search and production to resolving the issues in this Litigation. Furthermore, the
24 Commission objects to the Request to produce all "Communications" as overbroad,
25 burdensome, and improper, as the definition of "Communications" that accompanies these

1 First Requests is not confined to documents and tangible things within the scope of
2 Federal Rule of Procedure 34. The FTC is withholding documents based on these
3 objections.

4 The FTC will produce documents obtained from businesses, agencies, and
5 consumers in connection with its investigation of GCU and GCE as described elsewhere
6 in these responses. The search and production will exclude public records and Documents
7 that the Defendants produced to the Commission prior to the initiation of this suit.

8 **REQUEST FOR PRODUCTION NO. 17:** Produce all Documents and
9 Communications You intend to use to support Your allegations in the Amended Complaint
10 or seek to introduce into evidence at trial.
11

12 **RESPONSE:** The FTC objects to this Request as premature, as well as ambiguous,
13 overly broad, and disproportionate to the needs of the case to the extent that it requests
14 production of “all Documents and Communications” and requires the FTC to speculate
15 which documents or communications it intends to introduce at trial or otherwise support
16 the allegations in the Amended Complaint. Discovery has recently commenced; it is too
17 early to ascertain what facts will be contested and the evidence the Commission may use
18 to establish liability and redress. Moreover, the FTC objects to this Request because
19 deliberations regarding potential evidence is protected by the work product doctrine.

20 The FTC will not be producing Documents in response to this Request at this time.

21 **REQUEST FOR PRODUCTION NO. 18:** Produce all Documents and
22 Communications relating to, supporting, substantiating, or evidencing Your allegation in
23 Paragraph 13 of Your Amended Complaint that GCU is organized to sell educational
24 services “for its own profit and for the profit of GCE,” including all Documents and
25

1 Communications that demonstrate how each Defendant profits from GCU's sale of
2 educational services.

3 **RESPONSE:** The FTC objects to this Request to the extent it covers public records and
4 Documents already in Defendant GCE's possession, custody, or control. GCE already has
5 access to the records regarding Project Gazelle, contracts and transactions arising from
6 Project Gazelle, and revenues and profits of GCU. GCE likewise has access to the district
7 and appellate court records in *Grand Canyon University v. Cardona* and the *Grand*
8 *Canyon Securities Litig.* To the extent this Request seeks public records or documents in
9 GCE's possession, custody, or control, the Request is improper and unduly burdensome
10 because GCE has access to the Documents without the FTC re-producing them.

11 The FTC also objects that this Request fails to describe the requested records with
12 reasonable particularity, and is overbroad, unduly burdensome, and disproportionate to the
13 needs of the case in that it purports to require the FTC to search for and produce all
14 Documents relating to, supporting, substantiating, or evidencing Paragraph 13 without
15 regard to whether the Document is relevant to the claims or defenses in this Litigation.
16 The burden of conducting a search to gather and produce all Documents relating to,
17 supporting, substantiating, or evidencing the referenced allegation is not justified by the
18 value of such a search and production to resolving the issues in this Litigation.
19 Furthermore, the Commission objects to the Request to produce all "Communications" as
20 overbroad, burdensome, and improper, as the definition of "Communications" that
21 accompanies these First Requests is not confined to documents and tangible things within
22 the scope of Federal Rule of Procedure 34. The FTC is withholding documents based on
23 these objections.
24
25

1 Insofar as this request seeks Documents that evaluate the allegations in Paragraph
2 13, the FTC objects to this Request because it seeks Documents protected by the work
3 product doctrine, the attorney-client privilege, the deliberative process privilege, and the
4 law enforcement evidentiary or investigatory files privilege. Accordingly, the FTC will
5 not produce Documents containing internal Commission communications, notes, drafts,
6 communications with other law enforcement agencies, documents related to such
7 communications, or memoranda and analyses prepared in anticipation of litigation, or
8 Documents containing protected communications.

9 The FTC will produce records obtained from the Internal Revenue Service as
10 described below in response to Request 20.

11 **REQUEST FOR PRODUCTION NO. 19:** Produce all Documents and
12 Communications relating to, referencing, or evidencing Your allegation in Paragraph 93
13 that consumers are suffering, have suffered and will continue to suffer substantial injury
14 as a result of Defendants' violations of the FTC Act and the TSR.
15

16 **RESPONSE:** The FTC objects that this Request fails to describe the requested records
17 with reasonable particularity, and is overbroad, unduly burdensome, and disproportionate
18 to the needs of the case in that it purports to require the FTC to search for and produce all
19 Documents relating to, supporting, substantiating, or evidencing substantial injury and
20 prospective injury to consumers without regard to whether the Document is relevant to the
21 claims or defenses in this Litigation. The burden of conducting a search to gather and
22 produce all such Documents is not justified by the value of such a search and production
23 to resolving the issues in this Litigation. Furthermore, the Commission objects to the
24 Request to produce all "Communications" as overbroad, burdensome, and improper, as the
25

1 definition of “Communications” that accompanies these First Requests is not confined to
2 documents and tangible things within the scope of Federal Rule of Procedure 34.

3 The FTC also objects to this Request to the extent it covers public records and
4 Documents already in Defendant GCE’s possession, custody, or control. The
5 Commission’s initial disclosures describe an estimate of the injury to consumers based on
6 Defendants’ records. The request that the FTC re-produce Defendants’ records is
7 unreasonably burdensome and duplicative. The FTC is withholding documents based on
8 these objections.

9 Insofar as this Request seeks Documents that evaluate the substantial injury to
10 consumers, the FTC objects to this Request because it seeks Documents protected by the
11 work product doctrine, the attorney-client privilege, the deliberative process privilege, the
12 informant’s privilege, and the law enforcement evidentiary or investigatory files privilege.
13 Accordingly, the FTC will not produce Documents containing internal Commission
14 communications, notes, drafts, communications with informants and other law
15 enforcement agencies, documents related to such communications, or memoranda and
16 analyses prepared in anticipation of litigation, or Documents containing protected
17 communications.

18 The FTC will produce consumer complaints and declarations, and Documents
19 obtained from businesses and agencies, as described in the responses to other requests.
20 The search and production will exclude public records and Documents that the Defendants
21 produced to the Commission prior to the initiation of this suit.

22 **REQUEST FOR PRODUCTION NO. 20:** Produce all Documents and
23 Communications You have obtained through online queries, information requests, or
24 civil investigative demands from any of the following entities referenced in Section II of
25

1 Your Initial Disclosures: Arizona Corporation Commission; Alaska Department of Law,
2 Commercial, Fair Business & Child Support Section; All Star Directories, Inc.; Arizona
3 State Board for Private Postsecondary Education; Arizona Secretary of State, Business
4 Services Division; CompliancePoint, Inc.; Colorado Department of Law, Consumer
5 Protection Section; Cygnus Marketing Communications, Inc.; EducationDynamics,
6 LLC; The Higher Learning Commission; Internet Archive; Indiana Office of the
7 Attorney General, Consumer Protection Division; North Carolina Secretary of State,
8 Telephonic Sellers Registration; Niche.com; Ohio Attorney General, Consumer
9 Protection Unit; Oklahoma Attorney General; PossibleNow, Inc.; TriAd Media
10 Solutions, Inc.; United States Department of Education; United States Department of the
11 Treasury, Internal Revenue Service; United States Securities and Exchange Commission;
12 Washington State Department of Licensing; West Virginia State Tax Department, Office
13 of Business Registration.

14 **RESPONSE:**

15 The FTC objects that this Request fails to describe the requested records with
16 reasonable particularity, and is overbroad, unduly burdensome, and disproportionate to the
17 needs of the case in that it purports to require the FTC to search for and produce all
18 Communications and incorporates the definition of “Communications” that accompanies
19 these First Requests, which is not confined to documents and tangible things within the
20 scope of Federal Rule of Procedure 34. The FTC is withholding material based on this
21 objection, and its response below is limited to the portion of the Request that seeks
22 Documents referenced in Section II of the FTC’s Initial Disclosures.
23

1 • Arizona Corporation Commission

2 The FTC will produce filings with the Arizona Corporation Commission referenced
3 in its Initial Disclosures.

4 The FTC objects to this Request to the extent it is not limited to this Litigation, and
5 calls for production of documents not obtained for purposes of this Litigation; such
6 documents are not related to the claims or defenses and request for production of such
7 records is unreasonably burdensome.

8 • Alaska Department of Law, Commercial, Fair Business & Child Support Section

9 The FTC will produce records from this agency referenced in its Initial Disclosures.

10 The FTC objects to this Request to the extent it is not limited to this Litigation, and
11 calls for production of documents not obtained for purposes of this Litigation; such
12 documents are not related to the claims or defenses and request for production of such
13 records is unreasonably burdensome.

14 • All Star Directories, Inc.

15 The FTC will produce Documents obtained from this company in response to a
16 civil investigative demand relating to investigation of GCU and GCE marketing with the
17 exception of records that contain lead information produced to the FTC. The FTC objects
18 to producing lead records because Defendants already possess the lead information
19 relevant to claims or defenses in this action. To the extent the lead records are within the
20 scope of discovery, it is more convenient, less burdensome, and less expensive for GCE to
21 access its records, and this discovery request is unduly burdensome. The FTC's
22 production will not include Documents covered by these objections.

23 The FTC objects to this request to the extent it is not limited to this Litigation, and
24 calls for production of documents not obtained for purposes of this Litigation; such

documents are not related to the claims or defenses and request for production of such records is unreasonably burdensome.

- Arizona State Board for Private Postsecondary Education

The FTC will produce Documents obtained from this agency referenced in its Initial Disclosures.

The FTC objects to this Request to the extent it is not limited to this Litigation, and calls for production of documents not obtained for purposes of this Litigation; such documents are not related to the claims or defenses and the request for production of such records is unreasonably burdensome.

- Arizona Secretary of State, Business Services Division

The FTC will produce filings with the Arizona Secretary of State, Business Services Division referenced in its Initial Disclosures.

The FTC objects to this Request to the extent it is not limited to this Litigation, and calls for production of documents not obtained for purposes of this Litigation; such documents are not related to the claims or defenses and request for production of such records is unreasonably burdensome.

- CompliancePoint, Inc.

The FTC will produce Documents obtained from CompliancePoint, Inc. referenced in its Initial Disclosures.

The FTC objects to this Request to the extent it is not limited to this Litigation, and calls for production of documents not obtained for purposes of this Litigation; such documents are not related to the claims or defenses and the request for production of such records is unreasonably burdensome.

- Colorado Department of Law, Consumer Protection Section

The FTC will produce records from this agency referenced in its Initial Disclosures.

1 The FTC objects to this Request to the extent it is not limited to this Litigation, and
2 calls for production of documents not obtained for purposes of this Litigation; such
3 documents are not related to the claims or defenses and request for production of such
4 records is unreasonably burdensome.

5 • Cygnus Marketing Communications, Inc.

6 The FTC will produce Documents obtained from this company in response to a
7 civil investigative demand relating to investigation of GCU and GCE marketing with the
8 exception of records that contain lead information produced to the FTC. The FTC objects
9 to producing lead records because Defendants already possess the lead information
10 relevant to claims or defenses in this action. To the extent the lead records are within the
11 scope of discovery, it is more convenient, less burdensome, and less expensive for GCE to
12 access its records, and this discovery request is unduly burdensome. The FTC's
13 production will not include Documents covered by these objections.

14 The FTC objects to this Request to the extent it is not limited to this Litigation, and
15 calls for production of documents not obtained for purposes of this Litigation; such
16 documents are not related to the claims or defenses and request for production of such
17 records is unreasonably burdensome.

18 • EducationDynamics, LLC

19 The FTC will produce Documents obtained from this company in response to a
20 civil investigative demand relating to investigation of GCU and GCE marketing with the
21 exception of records that contain lead information produced to the FTC. The FTC objects
22 to producing lead records because Defendants already possess the lead information
23 relevant to claims or defenses in this action. To the extent the lead records are within the
24 scope of discovery, it is more convenient, less burdensome, and less expensive for GCE to
25 access its records, and this discovery request is unduly burdensome. The FTC also objects

1 to the production of documents that identify entities from which the company purchased
2 leads and the terms of acquisition of such leads, and will not produce the records because
3 the documents are not relevant to claims or defenses in this action. The FTC's production
4 will not include Documents covered by these objections.

5 The FTC objects to this Request to the extent it is not limited to this Litigation, and
6 calls for production of documents not obtained for purposes of this Litigation; such
7 documents are not related to the claims or defenses and request for production of such
8 records is unreasonably burdensome.

9 • The Higher Learning Commission

10 The FTC will produce Documents obtained from this agency referenced in its
11 initial disclosures.

12 The FTC objects to this Request to the extent it is not limited to this Litigation, and
13 calls for production of documents not obtained for purposes of this Litigation; such
14 documents are not related to the claims or defenses and the request for production of such
15 records is unreasonably burdensome.

16 • Internet Archive

17 The FTC will produce records of the Internet Archive referenced in its Initial
18 Disclosures.

19 The FTC objects to this Request to the extent it is not limited to this Litigation, and
20 calls for production of documents not obtained for purposes of this Litigation; such
21 documents are not related to the claims or defenses and request for production of such
22 records is unreasonably burdensome.

23 • Indiana Office of the Attorney General, Consumer Protection Division

24 The FTC will produce records from this agency referenced in its Initial Disclosures.

1 The FTC objects to this Request to the extent it is not limited to this Litigation, and
2 calls for production of documents not obtained for purposes of this Litigation; such
3 documents are not related to the claims or defenses and request for production of such
4 records is unreasonably burdensome.

5 • North Carolina Secretary of State, Telephonic Sellers Registration

6 The FTC will produce records from this agency referenced in its Initial Disclosures.

7 The FTC objects to this Request to the extent it is not limited to this Litigation, and
8 calls for production of documents not obtained for purposes of this Litigation; such
9 documents are not related to the claims or defenses and request for production of such
10 records is unreasonably burdensome.

11 • Niche.com

12 The FTC will produce records from this company referenced in its Initial
13 Disclosures.

14 The FTC objects to this Request to the extent it is not limited to this Litigation, and
15 calls for production of documents not obtained for purposes of this Litigation; such
16 documents are not related to the claims or defenses and request for production of such
17 records is unreasonably burdensome.

18 • Ohio Attorney General, Consumer Protection Unit

19 The FTC will produce records from this agency referenced in its Initial Disclosures.

20 The FTC objects to this Request to the extent it is not limited to this Litigation, and
21 calls for production of documents not obtained for purposes of this Litigation; such
22 documents are not related to the claims or defenses and request for production of such
23 records is unreasonably burdensome.

24 • Oklahoma Attorney General

25 The FTC will produce records from this agency referenced in its Initial Disclosures.

1 The FTC objects to this Request to the extent it is not limited to this Litigation, and
2 calls for production of documents not obtained for purposes of this Litigation; such
3 documents are not related to the claims or defenses and request for production of such
4 records is unreasonably burdensome.

5 • PossibleNow, Inc.

6 The FTC will produce Documents obtained from PossibleNow, Inc. referenced in
7 its Initial Disclosures.

8 The FTC objects to this Request to the extent it is not limited to this Litigation, and
9 calls for production of documents not obtained for purposes of this Litigation; such
10 documents are not related to the claims or defenses and the request for production of such
11 records is unreasonably burdensome.

12 • TriAd Media Solutions, Inc.

13 The FTC will produce Documents obtained from this company in response to a
14 civil investigative demand relating to investigation of GCU and GCE marketing with the
15 exception of records that contain lead information produced to the FTC. The FTC objects
16 to producing lead records because Defendants already possess the lead information
17 relevant to claims or defenses in this action. To the extent the lead records are within the
18 scope of discovery, it is more convenient, less burdensome, and less expensive for GCE to
19 access its records, and this discovery request is unduly burdensome. The FTC's
20 production will not include Documents covered by these objections.

21 The FTC objects to this Request to the extent it is not limited to this Litigation, and
22 calls for production of documents not obtained for purposes of this Litigation; such
23 documents are not related to the claims or defenses and request for production of such
24 records is unreasonably burdensome.

1 • United States Department of Education

2 The FTC objects that this Request is unreasonably burdensome insofar as the
3 documents it describes are duplicates of documents already in Defendant's possession.
4 The FTC objects to this Request with regard to documents that are not in Defendant's
5 possession because it is overbroad and encompasses communications protected by the law
6 enforcement evidentiary or investigatory files privilege, the deliberative process privilege,
7 and the work product doctrine, and information that is not relevant to the claims or
8 defenses in this Litigation. Accordingly, the FTC will not produce communications with
9 informants or inter-agency communications with the Department of Education.

10 The FTC will produce redacted communications between the FTC and the
11 Department of Education that have been released pursuant to the Freedom of Information
12 Act, 5 U.S.C. § 552.

13 • United States Department of the Treasury, Internal Revenue Service

14 The FTC will produce records from the Internal Revenue Service referenced in it is
15 Initial Disclosures.

16 The FTC objects to this Request to the extent it is not limited to this Litigation, and
17 calls for production of documents not obtained for purposes of this Litigation; such
18 documents are not related to the claims or defenses and request for production of such
19 records is unreasonably burdensome. The FTC also objects to this Request insofar as it
20 encompasses GCU tax returns as GCE has access to these public documents.

21 • United States Securities and Exchange Commission

22 The FTC objects that this Request is unreasonably burdensome because the
23 documents it describes are duplicates of documents already in Defendant's possession.
24 All documents the Commission has received from the United States Securities and
25 Exchange Commission in connection with this Litigation are public filings by GCE.

1 The FTC also objects that this Request is unduly burdensome to the extent it is not
2 limited to this Litigation, and calls for production of documents not obtained for purposes
3 of this Litigation; such documents are not related to the claims or defenses and request for
4 production of such records is unreasonably burdensome.

5 • Washington State Department of Licensing

6 The FTC will produce records from this agency referenced in its Initial Disclosures.

7 The FTC objects to this Request to the extent it is not limited to this Litigation, and
8 calls for production of documents not obtained for purposes of this Litigation; such
9 documents are not related to the claims or defenses and request for production of such
10 records is unreasonably burdensome.

11 • West Virginia State Tax Department, Office of Business Registration.

12 The FTC will produce records from this agency referenced in its Initial Disclosures.

13 The FTC objects to this Request to the extent it is not limited to this Litigation, and
14 calls for production of documents not obtained for purposes of this Litigation; such
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1 documents are not related to the claims or defenses and request for production of such
2 records is unreasonably burdensome.

3 DATED: November 7, 2024

Respectfully submitted,

4 FEDERAL TRADE COMMISSION

5
6 By: /s/ Michael E. Tankersley

7 Michael E. Tankersley

8 Carlton Mosley

9 Patrick Roy

10 FEDERAL TRADE COMMISSION

11 600 Pennsylvania Avenue NW

12 Washington, D.C. 20580

13 Telephone: (202) 326-2991

14 Email: mtankersley@ftc.gov

15 *Attorneys for Plaintiff*

16 *FEDERAL TRADE COMMISSION*